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OFFICE OF PETITIONS

In re Application of	:	
Charles A. KONRAD	:	
Application No. 09/411,568	:	ON PETITION
Filed: October 4, 1999	:	
Attorney Docket No. 17242/002004	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 1, 2006, to revive the above-identified application, and the petition under 37 CFR 1.183, filed August 1, 2006, to waive the provisions of 37 CFR 1.137(e).

The petitions are **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 13, 2001, which set a shortened statutory period for reply of three (3) months. Accordingly the above-identified application became abandoned on October 14, 2001.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of \$750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of July 13, 2001 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Petitioner did not respond timely to the petition decision mailed August 31, 2005; however petitioner submitted an additional petition fee of \$750 with the instant petition. This additional petition fee is being construed as a petition under 37 CFR 1.183 requesting a waiver of the provisions of 37 CFR 1.137(e). Under the extraordinary circumstances of this application, as set forth in the instant petition, justice would be served by suspending the requirements of 37 CFR 1.137(e).

Petitioner's deposit account No. 50-0591 will be refunded \$350 (\$750-\$400(the petition fee required under 37 CFR 1.17(f)).

Telephone inquiries concerning this decision should be directed to David Bucci at (571) 272-7099.

The application file is being referred to Technology Center AU 1631 for appropriate action on the amendment filed July 19, 2005.

A handwritten signature in black ink, appearing to read 'Brian Hearn', with a long horizontal stroke extending to the right.

Brian Hearn
Petitions Examiner
Office of Petitions